



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

FEB 23, 2009

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Taxpayer Identification Number:

Person to Contact/ID

Contact Numbers:

Voice:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear ,

In a determination letter dated September 18, 20xx, you were held to be exempt from Federal income tax under section 501(c)(7) of the Internal Revenue Code.

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(7) of the Code. Accordingly, your exemption from Federal income tax is revoked effective January 1, 20xx. This is a final adverse determination letter with regard to your status under section 501(c)(7) of the code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On January 24, 20xx, you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(7) of the Code.

You are therefore required to file Form 1120, *U.S. Corporation Income Tax Return*, for the years ended December 31, 20xx and 20xx with the Ogden Service Center. For future periods, you are required to file Form 1120 with the appropriate service center indicated in the instructions for the return.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United

States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Taxpayer Advocate

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Renee B. Wells
Acting Director, EO Examinations

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended 20XX 20XX

Please note that this is not a **FINAL REPORT**. This report is subject to review by our Mandatory Review staff, who may modify it.

ISSUE

Whether the tax exempt status of an organization that operates a sportsmans club, and engages in activities with the general public, should be revoked.

BRIEF EXPLANATION OF FACTS

The club is limited to members only, involved in conservation of the environment and protection of sportsmens interests. The club is located on the second level of a building in downtown

. The club has a pool room, a small bar (about 4 bar stools and 2 tables), a small kitchen, and a meeting room, (about 12' x 20 '). Only members are allowed in the facility, as each has a key to it. It is open Monday through Friday for about six hours, or less depending on the crowd. There are no hunting or fishing areas here. The club maintains a hunting camp for its members near . This is a camp only, and is used only by the members at no charge.

The majority of the club's income is generated through bar sales (\$), and rental of building space (\$) to three businesses on the ground level of the facility.

A non member use test was performed based on records provided by the club. This test resulted in non member use of 22% (limited to 15%) in 20XX, 22% in 20XX and 18% in 20XX. A non member income test was also performed. This test resulted in nonmember income of 25% (limited to 35%) in 20XX, 26% in 20XX, and 20% in 20XX.

LAW

Treasury Regulation 1.501(c)(7)(b)

A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non profitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption.

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P.L. 94-568

Social clubs are permitted to receive a certain amount of income from the general public and investments. "Substantially all" was substituted for "exclusively" in IRC 501(c)(7).
(2) The following table explains the consequences of receiving income from outside of the club membership.

IF THE ORGANIZATION

THEN

Receives 35% of its receipts from investments

The organization may maintain its exemption under IRC 501(c)(7)

Receives no more than 15% of its gross receipts from nonmember use of club facilities and/or services

The organization may maintain its exemption under IRC 501(c)(7)

Receives 35% of its gross receipts from outside its membership and no more than 15% of its gross receipts are derived from nonmember use of club facilities

The organization may maintain its exemption under IRC 501(c)(7)

Exceeds the 35% and/or 15% limitations

The organization may maintain its exempt status if it can show through facts and circumstances that substantially all of its activities are for "pleasure, recreation, and other nonprofitable purposes".

Rev. Rul. 60-324, 1960-2 C.B. 173.

Use by outside organizations—A social club exempt from Federal income tax under IRC 501(c)(7) may lose its exemption if it makes its club facilities available to the general public on a regular, recurring basis since it may then no longer be considered to be organized and operated exclusively for its exempt purpose.

Revenue Ruling 69-220, 1969-1 CB 154.

A social club that receives a substantial portion of its income from the rental of property and uses such income to defray operating expenses and to improve and expand its facilities is not exempt under section 501(c)(7) of the Code.

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Rev. Rul. 66-149, 1966-1 C.B. 146

holds a social club not exempt as an organization described in IRC 501(c)(7) where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments it owns.

Rev. Proc. 71-17, 1971-1 C.B.683.

Nonmember use of facilities; guidelines and recordkeeping requirements—Revenue Procedure 71-17 describes the record-keeping requirements for social clubs exempt under IRC 501(c)(7) with respect to nonmember use of their facilities; it sets forth guidelines for determining the effect of gross receipts derived from public use of the club's facilities on exemption and liability for unrelated business income tax.

Solicitation of the general public to utilize club facilities will disqualify the social club for tax exemption. Keystone Automobile Club v. Commissioner; United States v. Fort Worth Club of Fort Worth, Texas, 345 F.2d 52; Polish American Club, Inc. v. Commissioner 33 T.C.M. 925.

Pittsburgh Press Club v. United States 579 F.2d at 761.

In Pittsburgh Press Club v. U.S., 536 F.2d 572 (1976); 579 F.2d 751 (1978); and 615 F.2d 600 (1980), the court found that a substantial portion of the club's total gross receipts was from nonmember use of club facilities (determined to be between 11-17% of gross income). This indicated to the court that the club was engaged in business with the general public.

GOVERNMENT'S POSITION

Based on the facts of the examination, the organization does not qualify for exemption because it over 15% of it's income is derived from non member sources for the last three years. The organization is not being operated exclusively for pleasure, recreation, or social purposes. If the club exceeds the 15/35% test, it will maintain its exempt status only if it can show through facts and circumstances that "substantially all" of its activities are for pleasure, recreation, and other non profitable purposes.

Facts and circumstances show that for the years of 20XX through 20XX the club has derived 22% of its income from non member sources.

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CONCLUSION

Based on the foregoing reasons, the organization does not qualify for exemption under section 501(c)(7) and its tax exempt status should be revoked.